



Billing Code 6325-63

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 870

RIN: 3206-AM81

Special Rights for Transferred Employees under the Dodd-Frank Act Regarding Federal Employees' Group Life Insurance

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to implement provisions of Public Law 111-203, the Dodd-Frank Wall Street Reform and Consumer Protection Act. Public Law 111-203 includes authorization for certain transferred employees to have a special enrollment opportunity and special rights regarding Federal Employees' Group Life Insurance (FEGLI) to ensure their continuity of benefits coverage.

DATES: Comments are due on or before [INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]

ADDRESSES: You may submit comments, identified by RIN number "3206-AM81," using any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail: Rachel Royster, Program Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Rachel Royster, Program Analyst (202) 606-4181.

SUPPLEMENTARY INFORMATION: The U.S. Office of Personnel Management (OPM) is issuing a notice of proposed rulemaking to provide special FEGLI rights to the following employees who were carrying employer sponsored life insurance other than FEGLI: (1) employees from Office of Thrift Supervision (OTS) transferred to Office of the Comptroller of the Currency (OCC) and Federal Deposit Insurance Corporation (FDIC); and (2) employees of the Federal Reserve System, FDIC, National Credit Union Administration Board (NCUA), OCC, OTS, and Department of Housing and Urban Development (HUD) to the Consumer Financial Protection Bureau (CFPB or the Bureau) under Public Law 111-203. The new regulatory provisions include new subparts in part 870 of title 5 of the Code of Federal Regulations. Authorizing legislation: Section 322 and Section 1064 of Public Law 111-203 discuss the transfer of employees and their special FEGLI rights.

Section 322. Transfer of Employees from OTS to OCC or FDIC

The relevant portions of this section states:

“(B) Dental, Vision, or Life Insurance After the First Year.—If, after the 1-year period beginning on the transfer date, the Office of the Comptroller of the Currency or

the Corporation determines that the Office of the Comptroller of the Currency or the Corporation, as the case may be, will not continue to participate in any dental, vision or life insurance program of an agency from which an employee was transferred, a transferred employee who is a member of the program may, before the decision takes effect and without regard to any regularly scheduled open season, elect to enroll in—“ 322(i)(2)(B).

...

“(iii) the Federal Employees’ Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability.” 322(i)(2)(B)(iii).

...

“(IV) Credit for Time Enrolled in Other Plans—For any transferred employee, enrollment in a life insurance plan administered by the agency from which the employee transferred, immediately before enrollment in a life insurance plan under chapter 87 of title 5, United States Code, shall be considered as enrollment in a life insurance plan under that chapter for the purpose of 8706(b)(1)(A) of title 5, United States Code.” 322(i)(2)(E)(ii)(IV).

These provisions allow a transferring employee that participated in an OTS life insurance program that is no longer available at OCC or FDIC to have a special enrollment period for FEGLI. OTS maintained the Office of Thrift Supervision Group Life Insurance Program in which OCC and FDIC did not continue to participate. Therefore, at approximately one year after the transfer date, July 21, 2011, OPM held a special enrollment period for transferred employees

participating in Office of Thrift Supervision Group Life Insurance Program to enroll in FEGLI. The special enrollment period began on June 1, 2012 and ended July 29, 2012.

Any employee who enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by OTS credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

Section 1064. Transfer of Employees from the Federal Reserve System, FDIC, NCUA, OCC, OTS and HUD to CFPB

The relevant portion of this section states:

“(B) Medical, Dental, Vision, or Life Insurance After the First Year.— If, at the end of the 1-year period beginning on the designated transfer date, the Bureau has not established its own, or arranged for participation in another entity’s, medical, dental, vision, or life insurance program, an employee transferred pursuant to this subtitle who was a member of such a program at the agency or Federal reserve bank from which the employee transferred may, before the coverage of that employee ends under subparagraph (A)(i), elect to enroll, without regard to any regularly scheduled open season, in —” 1064 (i)(2)(B).

“(iii) the Federal Employees’ Group Life Insurance Program established under chapter 87 of title 5, United States Code, without regard to any requirement of insurability...” 1064(i)(2)(B)(iii).

CFPB established its own life insurance program. Therefore, the referenced employees transferred did not have a special enrollment period to elect FEGLI coverage. These transferred employees can enroll if they experience a qualifying life event or by providing satisfactory medical information.

While there was no special enrollment period for employees transferring to CFPB, if employees that transferred to CFPB were newly eligible for FEGLI (they did not have a prior FEGLI election opportunity at their former employing agency from which they were transferred), an opportunity to enroll was created. Since these employees previously did not have the opportunity to elect FEGLI, they were treated as though they were new employees for FEGLI purposes and could make a first-opportunity election of FEGLI coverage during the same special enrollment period as the Section 322 transferees. These employees who enrolled in FEGLI during this special enrollment period will have their time in a life insurance plan administered by their former agency in which they transferred from credited towards their 5 years of continuous enrollment to continue FEGLI coverage into retirement.

Section 322 and Section 1064. Special Provisions for Annuitants to Ensure Continuation of Life Insurance Benefits

Section 322 and Section 1064 contain the following text:

(E) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant, as defined in section 8901 of title 5, United States Code, who is enrolled in a life insurance plan administered by an agency from which employees are transferred under this title on the day before the transfer date shall be eligible for coverage by a life insurance plan under sections 8706(b), 8714a, 8714b, or 8714c of title 5, United States Code, or by a life insurance plan established by the Office of the Comptroller of the Currency or the Corporation, as applicable, without regard to any regularly scheduled open season or any requirement of insurability. 322(i)(2)(E)(i).

And

(G) SPECIAL PROVISIONS TO ENSURE CONTINUATION OF LIFE INSURANCE BENEFITS.—

(i) IN GENERAL.—An annuitant (as defined in section 8901(3) of title 5, United States Code) who is enrolled in a life insurance plan administered by a transferor agency on the day before the designated transfer date shall be eligible for coverage by a life insurance plan under 8706(b), 8714a, 8714b, and 8714c of title 5, United States Code, or in a life insurance plan established by the Bureau, without regard to any regularly scheduled open season and requirement of insurability. 1064(i)(2)(G)(i).

OPM has interpreted these provisions to mean that if a referenced annuitant's life insurance coverage lapsed because their life insurance program ceased to exist, then they will be eligible to elect FEGLI. There is no one in this category because there are no life insurance programs administered by a transferor agency that ceased to exist. Therefore, there are no annuitants that can elect FEGLI as a result of these provisions.

Regulatory Impact Analysis

OPM has examined the impact of this proposed rule as required by Executive Order 12866 and Executive Order 13563, which directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public, health, and safety effects, distributive impacts, and equity). A regulatory impact analysis must be prepared for major rules with economically significant effects of \$100 million or more in any one year. This rule is not considered a major rule because OPM expects that this rule will not impose costs of more than \$100 million in any one year.

List of Subjects on 5 CFR Part and 870

Administrative practice and procedure, Government Employees, Life insurance.

U.S. Office of Personnel Management.

Katherine Archuleta,
Director.

For the reasons set forth in the preamble, the U.S. Office of Personnel Management proposes to amend 5 CFR Part 870 as follows:

TITLE 5 – ADMINISTRATIVE PERSONNEL

PART 870 FEDERAL EMPLOYEES’ GROUP LIFE INSURANCE PROGRAM

Subpart A - Administration and General Provisions

1. The authority citation for Part 870 is revised to read as follows:

Authority: 5 U.S.C. 8716; Subpart J also issued under section 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 870.302(a)(3)(ii) also issued under section 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 870.302(a)(3) also issued under sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251, and section 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 870.302(a)(3) also issued under section 145 of Pub. L. 106–522, 114 Stat. 2472; Secs. 870.302(b)(8), 870.601(a), and 870.602(b) also issued under Pub. L. 110–279, 122 Stat. 2604; Subpart E also issued under 5 U.S.C. 8702(c); Sec. 870.601(d)(3) also issued under 5 U.S.C. 8706(d); Sec. 870.703(e)(1) also issued under section 502 of Pub. L. 110–177, 121 Stat. 2542; Sec. 870.705 also issued under 5 U.S.C. 8714b(c) and 8714c(c); Public Law 104–106, 110 Stat. 521;

2. In §870.701, add paragraph (f) to read as follows:

§ 870.701 Eligibility for life insurance.

* * * * *

(f) An individual’s period of coverage in a life insurance plan is credited to the 5 years of service under (a)(2) of this section if: (1) he/she participated in the Office of Thrift Supervision (OTS) life insurance plan and transferred to the Office of the Comptroller of the Currency/Federal Deposit Insurance Corporation under the Dodd–Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, or he/she transferred to the Consumer Financial Protection Bureau under the Dodd–Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 and did not have a prior FEGLI election opportunity at their former agency from which they transferred, and (2) elected FEGLI coverage during the special enrollment

period between June 1, 2012 and July 29, 2012. Evidence of the non-FEGLI period of continuous coverage will be documented in a manner designated by OPM.

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